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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,421	09/05/2003	Joseph S. Vaughan	1604-441	7559
22442	7590	06/01/2004	EXAMINER	
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			NEWHOUSE, NATHAN JEFFREY	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 06/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/656,421	<b>Applicant(s)</b> VAUGHAN, JOSEPH S.	
	<b>Examiner</b> Nathan J. Newhouse	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/24/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 sets forth the distance of offset from the center-line of the rivet to the first and second legs of the cent bead being 0.90 inches, but this is inaccurate. According to the specification, this distance is 0.090 inches. See also claim 15.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-11 and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner et al. '239 (US 6,024,239).

Turner et al. '239 discloses an end closure comprising a central panel (12), tear panel (20) defined by score (22), stay on tab (26), reinforcing cent bead (52) and central webbing (42) on tab (26) having a horseshoe shaped void region (48) with a first leg

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(48a) extending a greater distance toward the nose of the tab than the second leg (48b).

See especially figures 2-3.

With respect to the dimensionally limitations (score origination loop having a radius of curvature at least 0.05 in.; length of first and second legs of the cent bead no greater than 0.125 in.; score has residual material thickness between 0.0035-0.0042 in.; first and second legs of cent bead at least 0.09 in. from central axis of rivet; first leg of horseshoe shaped void being 0.035 in.), these are a matter of routine optimization that is well within the knowledge of one of ordinary skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

5. Claims 1-9, 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Turner et al. '239 (US 6,024,239) in view of Turner et al. '728 (US 6,260,728).

Turner et al. '239 discloses an end closure comprising a central panel (12), tear panel (20) defined by score (22), stay on tab (26), reinforcing cent bead (52) and central webbing (42) on tab (26) having a horseshoe shaped void region (48) with a first leg (48a) extending a greater distance toward the nose of the tab than the second leg (48b). See especially figures 2-3. Turner et al. '239 does not teach the tear panel being defined by a primary frangible score and a secondary score although in col. 10, lines 54-58 Turner et al. '239 states that the principles of the inventions may be used for typical double score having an anti-fracture score.

Turner et al. '728 discloses a similar end closure having a tear panel defined by a primary frangible score (22) and a secondary score (24) which allows for a better tear

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panel as prevents premature opening of the can while easier to open especially for buckled cans due to rough handling. It would have been obvious to one of ordinary skill in the art to provide the end closure of Turner et al. '239 with a tear panel defined by a primary score and a secondary score as taught by Turner et al. '728 to provide a can with better openability, reduce premature opening and easier opening with the pull tab.

With respect to the dimensionally limitations (score origination loop having a radius of curvature at least 0.05 in. or 0.057in.; length of first and second legs of the cent bead no greater than 0.125 in.; score has residual material thickness between 0.0035-0.0042 in.; first and second legs of cent bead at least 0.09 in. from central axis of rivet; first leg of horseshoe shaped void being 0.035 in.; first and second leg of the cent bead offset at least 0.125 in. from tear panel; opening force no greater than 3.5 lbs.), these are a matter of routine optimization that is well within the knowledge of one of ordinary skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

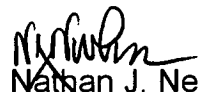
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan J. Newhouse whose telephone number is (703)-308-4158. The examiner can normally be reached on Monday-Thursday 7:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on (703)-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Nathan J. Newhouse  
Primary Examiner  
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